

### III. REMARKS

Claims 1-10 are pending in this application. By this amendment, claims 4 and 9 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Final Office Action dated December 30, 2004, claims 1, 2, 6 and 7 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Chou *et al.* (U.S. Patent No. 6,035,289), hereafter "Chou," in view of Official Notice, hereafter "ON1." Claims 3-5 and 8-10 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Chou in view of ON1 and further in view of Official Notice, hereafter "ON2."

#### A. REJECTION OF CLAIMS 1, 2, 6 AND 7 UNDER 35 U.S.C. §103(a) OVER CHOU IN VIEW OF ON1

With regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1, Applicants initially assert that there is no motivation or suggestion to modify Chou to reflect the teachings of ON1. One of the challenges that Chou states that it seeks to overcome in providing a method for matching shippers and carriers is that "...a large number of descriptors are required to define a particular shipping requirement or a particular carrier route being offered." Col. 1, line 64 through col. 2, line 5. Accordingly, the required fields in Chou include: quantity to be shipped, bid origin-destination pair, bid departure time window, bid arrival time window, bid price per unit load, capacity available, ask origin-destination pair, transportation mode, ask departure time

window, ask arrival time window, and ask price per unit load. Col. 5, line 51 through col. 6, line 5. The Office admits that Chou does not disclose matching only on desired purchase price and the desired purchase quantity. The Office attempts to rectify this deficiency with its ON1, which states "...it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Chou to match only on desired purchase price and the desired purchase quantity, since it is well within the skill to ascertain that feasibility matching merely reduces a matching set based only on price and quantity." Office Action, page 6, par. 3. However, modifying Chou to match only on desired purchase price and the desired purchase quantity as suggested by ON1 would destroy the intended function of Chou, that is, to create a matching system that takes into account the large number of descriptors required to define a particular shipping requirement or a particular carrier route being offered. Accordingly, the Office has failed to prove a *prima facie* case of obviousness and, as such, Applicants respectfully request withdrawal of the rejection.

With further regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1, Applicants assert that the Office's factual assertion is not properly based upon common knowledge. For example, Applicants assert that comparing only the desired purchase price and the desired purchase quantity of said purchase wish list with the supply price and supply quantity of said supply list is not obvious to one skilled in the art as asserted by the Office. Accordingly, Applicants respectfully request that the Office support the finding with references that show these features or withdraw the rejection.

With still further regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1, Applicants assert that the combination does not teach each and every feature of the claimed

invention. Specifically, with respect to claims 2 and 7, Applicants submit that, contrary to the Office's statement, Chou fails to teach or suggest, *inter alia*, the supply quantities in said supply list are classified into a plurality of supply quantity ranges each having a same predetermined span. Instead, Chou teaches that each "ask" must have a capacity available, a departure time window and an arrival time window. Col. 5, line 63 through col. 6, line 4. However, the departure time window and arrival time window are not ranges of the capacity available, but instead are unrelated attributes of the Chou "ask" step that are independent of the capacity available. Furthermore, Chou does not teach that the departure time window and arrival time window each have the same predetermined span. That is, nowhere, does Chou teach that its capacity available is classified into a plurality of supply quantity ranges each having a same predetermined span. In contrast, the present invention includes "...the supply quantities in said supply list are classified into a plurality of supply quantity ranges each having a same predetermined span." Claim 1. As such, the supply quantity ranges of the claimed invention are not unrelated fields as are the capacity available, departure time window and arrival time window ask attributes in Chou, but instead are classified from the supply quantities in the supply list. Furthermore, in contrast to the departure time window and arrival time window in Chou, the supply quantity ranges as included in the claimed invention each have a same predetermined span. Thus, the supply quantity ranges of the claimed invention are not equivalent to the departure time window and arrival time window ask attributes in Chou. ON1 does not cure this deficiency. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from

which the dependent claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

**B. REJECTION OF CLAIMS 3-5 AND 8-10 UNDER 35 U.S.C. §103(a) OVER CHOU IN VIEW OF ON1 AND ON2**

With regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1 and ON2, Applicants submit that there is no motivation or suggestion to combine Chou with ON2. Specifically, Chou teaches that "...an ask ordering step arranges the asks in ascending order based on the prices." Col. 3, lines 34-35. In contrast, the Office's ON2, states "...it would have been obvious to one of ordinary skill in the art at the time of the invention to arrange records in descending order, since it is well within the skill to ascertain that arranging in either ascending or descending order removes randomness from the information, thereby facilitating the matching process." Office Action, page 7. As such, the Chou teaching of ascending order teaches away from the descending order of ON2. Furthermore, the matching in Chou relies on priority of the ask records, which is established by the ascending order arrangement. Col. 3, lines 34-45. As such, arranging the asks in descending order as suggested by ON2 would cause the matching algorithm not to function correctly and thus would destroy the intended function of Chou. Accordingly, Applicants submit that the Office has failed to establish a *prima facie* case of obviousness and respectfully requests withdrawal of the rejection.

With further regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1 and ON2, Applicants assert that the Office's factual assertion is not properly based upon common

knowledge. For example, Applicants assert that a purchase wish list that is arranged such that said desired purchase prices are placed in descending order from highest to lowest is not obvious to one skilled in the art as asserted by the Office. Accordingly, Applicants respectfully request that the Office support the finding with references that show these features or withdraw the rejection.

With still further regard to the 35 U.S.C. §103(a) rejection over Chou in view of ON1 and ON2, Applicants submit that the cited references fail to teach each and every feature of the claimed invention. Specifically, with respect to claims 4 and 9, Applicants assert that, contrary to the assertion of the Office, Chou fails to teach or suggest, *inter alia*, that the selecting step selects the optimum combination so that gross profit of said seller is maximized. Instead, Chou teaches that "...the objective of the present invention is to maximize the total number of bids i and asks j that are successfully matched." Col. 9, lines 36-38. As such, Chou does not seek to maximize gross profit of the seller, but instead to maximize the total number of matches. In contrast, the claimed invention includes "...said selecting step selects the optimum combination so that gross profit of said seller is maximized." Claim 4. As such, the selecting step as included in the claimed invention does not have the objective to maximize the total number of matches, as does Chou, but instead selects the optimum combination so that gross profit of the seller is maximized. Thus, the matching of Chou is not equivalent to the selecting step of the claimed invention. Accordingly, Applicants request that the Office's rejection be withdrawn.

With further respect to claims 4 and 9, Applicants assert that the combined features of the cited references fail to teach or suggest, *inter alia*, that the selecting step further comprises: determining a first value by summing a product of the desired purchase price and the desired

purchase quantity for each transaction; determining a second value by summing the purchase quantity for each transaction; determining a third value by multiplying the supply price and the second value; and calculating the gross profit by subtracting the third value from the first value. Accordingly, Applicants respectfully request that the rejections be withdrawn.

With respect to claims 5 and 10, Applicants submit that the cited references also fail to teach or suggest checking within which supply quantity range in said supply list the accumulation result falls and determining a minimum supply price within the corresponding supply quantity range. Accordingly, Applicants request that the Office withdraw its rejection.

With further respect to claims 5 and 10, Applicants submit that the cited references also fail to teach or suggest, *inter alia*, calculating an aggregate gross profit using the determined supply price, wherein said accumulating step, said checking step, and said calculating step are repeated for all the purchase wish information in the purchase wish list, and intending purchasers up to the one corresponding to an iteration, in which the maximum aggregate gross profit has been obtained, are admitted to purchase. Accordingly, Applicants request that the Office's rejection be withdrawn.

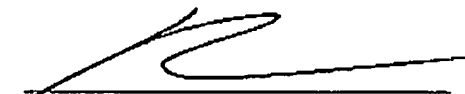
With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

#### IV. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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